

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

CONSTANT COMPLIANCE, INC.)	
)	
Plaintiff,)	Civil Action No. 08 CV 3724
)	
)	Judge Wayne R. Andersen
v.)	
)	Magistrate Judge Sidney I. Schenkier
EMERSON PROCESS MANAGEMENT)	
POWER & WATER SOLUTIONS, INC.)	JURY TRIAL DEMANDED
AND HACH COMPANY)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Constant Compliance, Inc. (“2Ci”), complains of defendants Emerson Process Management Power & Water Solutions, Inc. (“Emerson”), and Hach Company (“Hach”) as follows:

NATURE OF LAWSUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. § 1338(a).

PARTIES

2. 2Ci is an Illinois corporation with offices in 140 South Dearborn Street, Suite 411, Chicago, IL 60603. 2Ci is in the business of, among other things, commercializing its inventions relating to water and wastewater system monitoring. As a small water and wastewater system technology company, 2Ci depends on the protections of the patent system to attract investors, fund operations, and commercialize technology that protects the nation’s water and wastewater systems from intentional or accidental contamination.

3. Dr. Prasad S. Kodukula and Charles R. Stack are the two sole shareholders, directors, and officers of 2Ci, as well as the sole inventors of the patent-in-suit. Dr. Kodukula and Mr. Stack have been awarded three United States patents that relate to water and wastewater system monitoring, and have several additional patent applications pending.

4. 2Ci is the assignee of the patent-in suit. 2Ci owns all right title and interest in and has standing to sue for infringement of United States Patent No. 6,845,336 entitled “Water Treatment Monitoring System” which issued on January 18, 2005 (the ‘336 Patent”). 2Ci has complied with the provisions of 35 U.S.C. § 287(a) with respect to the 2Ci Patents.

5. 2Ci is a pioneer in the field of water and wastewater system monitoring, and received the Innovate Illinois Award in March 2005 as Illinois’ most innovative environmental small business. The environmental innovations for which 2Ci received that award included the ‘336 patent.

6. Defendant Emerson is a Delaware corporation with corporate headquarters at 200 Beta Dr., Pittsburgh, Pennsylvania 15238. Emerson’s registered agent, CT Corporation System, is located at 208 S. LaSalle St., Ste. 814, Chicago, IL 60604.

7. Emerson makes, uses, sells, offers for sale and/or imports water and wastewater system monitoring technology.

8. Defendant Hach is a Colorado corporation with corporate headquarters at 5600 Lindbergh Dr., Loveland, Colorado 80538. Hach’s registered agent, CT Corporation System, is located at 208 S. LaSalle St., Ste. 814, Chicago, IL 60604.

9. Hach makes, uses, sells, offers for sale and/or imports water and wastewater system monitoring technology.

JURISDICTION AND VENUE

10. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). Emerson and Hach transact business in this district and have committed acts of infringement in this judicial district, at least by offering to sell or selling infringing water and wastewater monitoring systems and through Internet websites that are designed to reach Illinois customers and are, in fact, used by customers in this judicial district.

PATENT INFRINGEMENT

12. Emerson has directly and/or indirectly infringed at least one claim of each of the ‘336 Patent through, among other activities, the manufacture, use, importation, sale and/or offer for sale of the Ovation Expert System.

13. 2Ci gave Emerson actual notice of its infringement of the ‘336 Patent by letter dated July 8, 2008. Emerson’s infringement has occurred with knowledge of the ‘336 Patent and has been willful in violation of 35 U.S.C. § 284 ¶ 2. Emerson’s infringement has injured and will continue to injure 2Ci, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, offers for sale and/or sale of Emerson products and services that fall within the scope of the ‘336 Patent.

14. Emerson has contributorily infringed or induced others to infringe (such as its customers in this judicial district and throughout the United States) of at least one claim of the ‘336 Patent in violation of 35 U.S.C. § 271 through, among other activities, providing water and wastewater process monitoring systems and demonstrating and instructing others of how to utilize its remote monitoring capabilities.

15. Emerson's infringement, contributory infringement, and/or inducement to infringe has injured 2Ci and 2Ci is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

16. Hach has directly and/or indirectly infringed at least one claim of each of the '336 Patent through, among other activities, the manufacture, use, importation, sale and/or offer for sale of the Guardian Blue Early Warning System.

17. 2Ci gave Hach actual notice of its infringement of the '336 Patent by letter dated January 15, 2008. Hach's infringement has occurred with knowledge of the '336 Patent and has been willful in violation of 35 U.S.C. § 284 ¶ 2. Hach's infringement has injured and will continue to injure 2Ci, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, offers for sale and/or sale of Hach products and services that fall within the scope of the '336 Patent.

18. Hach has contributorily infringed or induced others to infringe (such as its customers in this judicial district and throughout the United States) of at least one claim of the '336 Patent in violation of 35 U.S.C. § 271 through, among other activities, providing water and wastewater process monitoring systems and demonstrating and instructing others of how to utilize its remote monitoring capabilities.

19. Hach's infringement, contributory infringement, and/or inducement to infringe has injured 2Ci and 2Ci is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, 2Ci, asks this Court to enter judgment against each and every defendant and against their subsidiaries, affiliates, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- A. An entry of judgment in favor of 2Ci;
- B. An award of damages adequate to compensate 2Ci for the infringement that has occurred, together with prejudgment interest from the date infringement of the '336 patent began, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to 2Ci of its attorneys' fees and costs as provided by 35. U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement, inducement, inducement of infringement and/or contributory infringement of the '336 Patent; and,
- E. Such other relief that 2Ci is entitled to under law and any further relief as this Court or a jury may deem just and proper.

JURY DEMAND

2Ci demands a trial by jury on all issues presented in this complaint.

Respectfully submitted,

s/ Laura A. Kenneally

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